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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,158	07/27/2006	Torsten Frobel	3926.243	3585
41288	7590	12/05/2008		
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EXAMINER				
YABUT, DANIEL D				
ART UNIT		PAPER NUMBER		
3656				
MAIL DATE		DELIVERY MODE		
12/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/569,158

Applicant(s)

FROBEL ET AL.

Examiner

DANIEL YABUT

Art Unit

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-10** are rejected under 35 U.S.C. 102(b) as being anticipated by Fasano, US Patent 4,227,603.

Fasano discloses a lever apparatus comprising a(n):

Re claim 1

- Carrier component (9, 11, 12) holding a bearing element (7) on which an actuating lever (6) of the lever apparatus is pivotably fastened (Fig. 5)
- Carrier component has an opening (at 7) through which the bearing element protrudes (Fig. 5)
- Bearing element is a hollow sheet metal part (Fig. 4; MPEP 608.02(a)) which has at least one laterally protruding supporting means (16) which bears against a rear side (17) of the carrier component (2)
- Actuating lever on the bearing element is axially enclosed between the front side of the carrier component and a retaining part (near 12; Fig. 5) arranged on the bearing element (C2 / L19-21).

Re claim 2

- Supporting means (near 7; Fig. 5) is an annular collar which is formed on the bearing element.

Re claim 3

- Supporting means is formed at one end of the bearing element (near 7; Fig. 5).

Re claim 4

- Supporting means being additionally joined to the carrier component on the rear side thereof (near 7; Fig. 5; C2 / L19-21).

Re claim 5

- Retaining element is a clamping ring (near 12; Fig. 5) which is pressed onto the bearing element (see at least Fig. 4)

Re claim 6

- Carrier component is a metal sheet (C2 / L16-19; Fig. 4; MPEP 608.02(a)).

Re claim 7

- Sleeve-shaped bearing section (near 7) of the bearing element ends with an end wall (near 12) at its end which is situated on the side of the actuating lever and simultaneously coincides with the end there of the bearing element (C2 / L19-21; Fig. 5).

Re claim 8

- End wall has a passage opening (near 12; C2 / L16-19).

Re claim 9

- Transition of the cylindrical shape of the bearing section to the end wall (12) is rounded (near 7; Fig. 4)

Re claim 10

- Bearing element is a deep drawn part. **Note:** *Regarding this limitation, the MPEP states, "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL YABUT whose telephone number is (571)270-5526. The examiner can normally be reached on Monday through Friday from 9:00 A.M. to 5:00 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard W. Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL YABUT/
Examiner, Art Unit 3656
12/2/2008

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656